

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

IN RE: TRUST OF ROGER BENJAMIN	:	APPEAL NO. C-130379
HODGEMAN.	:	TRIAL NO. 2012004127
	:	
	:	<i>JUDGMENT ENTRY.</i>

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Appellant Myriam Hodgeman appeals the judgment of the Hamilton County Probate Court approving the payment of medical expenses, attorney fees, and other items in a trusteeship case.

In September 2012, Robert Hodgeman filed an application for the appointment of a trustee for Roger Benjamin Hodgeman, who was in poor health and could no longer manage his affairs. The court granted the application, and the trustee supervised Roger Hodgeman's health care and related matters until his death in December 2012. Mrs. Hodgeman, Roger Hodgeman's estranged wife, disagreed with many, if not all, of the decisions made by the trustee. The trustee submitted an accounting for expenditures, and the probate court approved the accounting in an entry issued in June 2013.

In her first assignment of error, Mrs. Hodgeman argues that the court erred in accepting the trustee's final account because the funds had already been expended

under an order issued in November 2012. Although Mrs. Hodgeman cites R.C. 2111.02 for the proposition that the timing of the expenditures violated the law, the statute does not support her argument. We overrule the first assignment of error.

In her second, third and fourth assignments of error, Mrs. Hodgeman contends that the court's approval of the accounting was contrary to the evidence. She contends that there were assets of the beneficiary that had not been included in the inventory; that the court failed to enforce a subpoena that she had requested; that the trustee failed to fulfill his fiduciary duties; and that there were inaccuracies in the bills submitted by the beneficiary's nursing home.

But because Mrs. Hodgeman has failed to file the transcripts of the hearings before the magistrate, this court must presume regularity in the proceedings. *See Estate of Fite v. Univ. Hosp.*, 1st Dist. Hamilton Nos. C-030225 and C-030242, 2004-Ohio-1266, ¶ 6. Accordingly, we overrule the second, third, and fourth assignments of error.

In her fifth and final assignment of error, Mrs. Hodgeman argues that the probate court erred in approving the payment of attorney fees.

An appellate court will not reverse a probate court's award of attorney fees absent an abuse of discretion. *In re Thompson*, 150 Ohio App.3d 98, 2002-Ohio-6065, 779 N.E.2d 816, ¶ 6 (1st Dist.).

In this case, we find no abuse of discretion. The fee requests were supported by an affidavit and by an itemized listing of the work performed. Mrs. Hodgeman has submitted copies of these documents with handwritten notes questioning the propriety of certain charges, but she has not cited any material of evidentiary value to substantiate her contention that the fees were unwarranted or excessive. We overrule the fifth assignment of error and affirm the judgment of the trial court.

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Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., HENDON and DeWINE, JJ.

To the clerk:

Enter upon the journal of the court on June 20, 2014
per order of the court _____.
Presiding Judge